

California Regional Water Quality Control Board
Santa Ana Region

August 13, 2004

ITEM: 5

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Evelia Villarruel Zepeda, 3485 Pacific Avenue, Riverside, Riverside County, APN 177-141-013

DISCUSSION:

On May 24, 2004, Evelia Zepeda contacted staff requesting an exemption from the Board's minimum lot size requirements for the use of a septic tank-subsurface disposal system on a 0.47-acre lot at 3485 Pacific Avenue in Riverside. There is currently a single-family home on the lot that is connected to an existing septic tank-subsurface disposal system. Ms. Zepeda purchased the lot/home with the intention of purchasing a second dwelling unit/mobile home to be placed on the lot where she could care for her daughter and granddaughter. Ms. Zepeda now wishes to install the second mobile home and septic tank-subsurface disposal system on the lot. This area of Riverside is unsewered.

On October 13, 1989, the Regional Board adopted Resolution No. 89-157, which requires new developments for which on-site subsurface disposal system use is proposed to have a minimum one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems found in the groundwater of the Region. Ms. Zepeda's proposed development is a new development as defined in Resolution No. 89-157 and is therefore subject to the minimum lot size requirements specified therein. With a density of 0.235 acres per dwelling unit, Ms. Zepeda's proposal does not comply with the Board's minimum lot size requirements. Accordingly, Board staff denied Ms. Zepeda's request for an exemption from the minimum lot size requirements.

Ms. Zepeda notes that the additional flows that would occur as a result of this project would be no greater than the flows that would be allowed if she were to add on to her existing house and replace the existing septic tank to accommodate the increased flows, which would be exempt from the minimum lot size criteria. On this basis, Ms. Zepeda is appealing to the Regional Board for reversal of staff's denial of an exemption from the minimum lot size requirements.

The minimum lot size exemption criteria to be used by Board staff specify that replacement of existing septic tank-subsurface disposal systems to allow additional flows resulting from additions to existing dwelling units is exempt from the one half acre requirement. However, the Board's exemption criteria specifically state that such an exemption does not apply to the addition of freestanding structures, such as a second home (mobile home) on the Zepeda property. In establishing the exemption criteria, the Board made this distinction because of the potential that the addition of freestanding structures could result, either immediately or in the

future, in substantially greater wastewater flows than would be expected as the result of additions to an existing dwelling.

While it is true that there would be no difference in wastewater flows on an immediate basis, i.e., while Ms. Zepeda owns the property and her daughter and granddaughter reside with her, there can be no guarantee that wastewater flows would not increase considerably in the future. As stated above, it was on this basis that the Board determined not to exempt the addition of freestanding structures from the minimum lot size requirements. However, this is an exceptional case in that the proposed additional structure is a mobile home. Ms. Zepeda has offered to remove the second dwelling unit/mobile home and septic system from the property once it is no longer required and has agreed to enter into an Agreement of Restriction to be recorded with the property Chain of Title that stipulates that this property may not be sold until the second dwelling unit/mobile home has been removed.

RECOMMENDATION:

Approve Ms. Zepeda's request for an exemption from the minimum lot size requirement specified in Resolution No. 89-157 with the following stipulations: 1) Once the second dwelling unit/mobile home is no longer required for use of the Zepeda family, it shall be removed from the property, and 2) Ms. Zepeda must enter into an Agreement of Restriction, which shall become a part of the Chain of Title, that the property may not be sold until the second dwelling unit/mobile home has been removed.

Comments were solicited from the following agencies:

State Water Resources Control Board, Office of Chief Counsel – Jorge Leon
Riverside County Environmental Health – Sam Martinez/Greg Dellenbach
Riverside County Building and Safety – Jim Miller/Diana Para
Riverside County Planning – Mark Balys